

TITLE 83: PUBLIC UTILITIES  
CHAPTER I: ILLINOIS COMMERCE COMMISSION  
SUBCHAPTER c: ELECTRIC UTILITIES

PART 440  
EQUITABLE ENERGY UPGRADE PROGRAM GUIDELINES

SUBPART A: GENERAL

Section	
440.10	Purpose
440.20	Definitions
440.30	Applicability
440.40	Waiver

SUBPART B: CUSTOMER AND ENERGY PROJECT ELIGIBILITY

Section	
440.100	Customer Program Participation Eligibility
440.110	Energy Project Program Participation Eligibility

SUBPART C: ENERGY PROJECT OWNERSHIP, MAINTENANCE, REPAIRS AND  
PAYMENTS

Section	
440.200	Ownership During the Energy Project Payment Period
440.210	Maintenance
440.220	Repairs
440.230	Nonpayment
440.240	Disconnection for Reasons Other Than Nonpayment

SUBPART D: GENERAL ELECTRIC UTILITY REQUIREMENTS

Section	
440.300	Requirement to Offer a Program
440.310	Informational Filings
440.320	Program Cost Recovery
440.330	Participation Requirements
440.340	Education and Information
440.350	Vendor Selection

SUBPART E: SECURITIZATION OF CAPITAL

**Commented [MH1]:** Members of the Illinois Clean Jobs Coalition's (ICJC) Energy Efficiency (EE) and Inclusive Financing (IF) Subcommittees:

*This is a joint comment from Members of the Illinois Clean Jobs Coalition's (ICJC) Energy Efficiency (EE) and Inclusive Financing (IF) Subcommittees, including Central Illinois Healthy Community Alliance, Central Road Energy LLC, Elevate, Illinois Environmental Council, Illinois People's Action, Midwest Energy Efficiency Alliance, Natural Resources Defense Council, Slipstream, United Congregations of Metro East, and Vote Solar. While these organizations are members of the ICJC, the views in these comments are our own and do not necessarily represent the views of that entire Coalition. Going forward within this document, comments from these ICJC members are denoted as "ICJC EE/IF Subcommittee Members."*

We strongly recommend that the concept of a program operator be added to these rules.

In all other PAYS programs, either the utility or its contractor plays the role of operator - marketing the program, identifying and reaching out to customers who may benefit based on energy usage data, screening customers and identifying most appropriate energy upgrades, referring customers to best program for each upgrade (i.e. into free programs first), negotiating bulk pricing with contractors, referring not leads but actual jobs to pre-screened contractors, and verification/quality control on installations. Including this concept in the rules would likely change how we approach other sections, as well, including potentially the Marketing, Education, and Information sections and the Vendor Requirements Subpart. Establishing an operator role in these draft rules has a number of potential advantages including:

- Operator should not be paid based on volume so would eliminate perverse incentives to (1) increase volume of customers (2) favor PAYS over other (potentially free) incentive programs.
- Operator can often do a better and more standard job than individual contractors of assessing the potential for improvements and braiding together different utility incentives for which customer is eligible (not just PAYS).
- Referring actual jobs rather than leads allows for the negotiation of lower pricing with contractors.
- The establishment of a preferred contractor network could allow for better involvement of diverse contractors and graduates from contractor training programs created via CEJA.

Section  
440.400 Minimum Capital Requirements

SUBPART F: CUSTOMER PROTECTION

Section  
440.500 XXX

SUBPART G: VENDOR REQUIREMENTS

Section  
440.600 XXX

SUBPART H: PROGRAM REVIEW

Section  
440.700 XXX

AUTHORITY: Implementing Sections 16-111.10 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/16-111.10 and 10-101].

SOURCE: XXX.

SUBPART A: GENERAL

**Section 440.10 Purpose**

The purpose of these requirements is to establish guidelines that electric utilities must abide by when implementing the Equitable Energy Upgrade Program.

**Section 440.20 Definitions**

"Act" means the Public Utilities Act [220 ILCS 5].

"Commission" means the Illinois Commerce Commission.

"Electric utility" means a public utility, as defined in Section 3-105 of the Act, that has a franchise, license, permit or right to furnish or sell electricity to retail customers within a service area.

"Eligible Customer" means an entity that meets the requirements of Subpart B of this Part.

"Energy project" means renewable energy generation systems, including solar projects, energy efficiency upgrades, energy storage systems, demand response equipment, or any combination thereof.

"Environmental justice community" means the definition of that term based on existing methodologies and findings, used and as may be updated by the Illinois Power Agency and its program administrator in the Illinois Solar for All Program.

"Equitable Energy Upgrade Agreement" means approval for an electric utility to install an energy project and, if the entity is the owner of the property where the energy project will be installed, attestation that the entity is the owner of a property, gives permission to allow the installation of an energy project on a property, agrees to not remove or damage the energy project, agrees to maintain the energy project, agrees to provide notice of the benefits and obligations associated with the energy project at the location to the next owner before the sale of the property or to a renter or lessee before renting or leasing the property, and agrees that failure of the entity to provide notice of the benefits and obligations associated with the energy project at the location to the next owner before the sale of the property and to any customer before the customer rents or leases the property will constitute the owner's acceptance of consequential damages and permission for a tenant or purchaser to break their rental, lease, or sales agreement without penalty. The equitable energy upgrade agreement shall also specify program service charges and the duration of program service charges and the entity's agreement to pay the specified service charges for duration of the program service charges. The agreement shall make clear the utility's responsibilities, as provided under Section 16-111.10 of the Public Utilities Act, to the eligible customer and any other consumer protections adopted by the Commission in this rule.

"Ownership Agreement" means permission by a property owner to allow the installation of an energy project on a property, agreement by a property owner not to remove or damage an energy project on a property, agreement by a property owner to maintain an energy project on the a property, agreement by a property owner to provide notice of the benefits and obligations associated with the energy project at the location to the next owner before the sale of the property and to any customer before the customer rents or leases the property, agreement that failure of the property owner to provide notice of the benefits and obligations associated with the energy project at the location to the next owner before the sale of the property and to any customer before the customer rents or leases the property will constitute the owner's acceptance of consequential damages and permission for a tenant or purchaser to break their rental, lease, or sales agreement without penalty.

"Program" means the Equitable Energy Upgrade Program.

"Program service charge" means the fixed monthly service charge included in the electric utilities tariff assessed by the electric utility to a participating entity for the energy project.

**Commented [MH2]:** ICJC EE/IF Subcommittee Members:

Add a footnote or reference where to find the IPA methodologies/definition in this paragraph.

**Commented [MH3]:** ICJC EE/IF Subcommittee Members:

Language for "Equitable Energy Upgrade Agreement" and the "Ownership Agreement", in particular, but also across the document, generally, is difficult to understand. As this is a program for general customers, it is critical that the rule be written in a way that general customers can parse. For instance, perhaps this could be broken into multiple sentences or defined simply and then have a section later that unpacks the requirements. Overall, we recommend that language be geared to general customers.

**Commented [MH4]:** ICJC EE/IF Subcommittee Members:

Concern that consequential damages language could present a major barrier to landlord willingness to participate in EEUP. PAYS agreements typically provide the ability to break a lease for the landlord's failure to notify, but not consequential damages.

Recommend the removal of "consequential damages" from Illinois rules, both in this definition and in the "Ownership Agreement" definition.

**Commented [ZJ5R4]:** Jim Z (ICC Staff): The consequential damages language is from the PAYS model tariff (Section 2.2). That said, Staff is open to discussing removing it in light of the issues you reference.

### Section 440.30 Applicability

The requirements of this Part are applicable to, and only to, electric utilities providing services to 500,000 or more retail customers in Illinois.

### Section 440.40 Waiver

- a) An electric utility may request a waiver of any of the provisions of this Part. A request for a waiver shall be made by petition. The petition shall be verified by a person or persons having knowledge of the facts and shall set forth a full statement of the reasons for the requested waiver. A waiver shall not be granted if the provision from which a waiver is sought is statutorily mandated, or if the request for a waiver is otherwise contrary to law.
- b) The burden of proof in any request for a waiver shall be upon the electric utility requesting the waiver. A request for waiver shall be granted upon good cause being shown by the electric utility. While other factors may be considered, and shall be mentioned if considered, the following factors shall be considered in determining whether good cause exists for the requested waiver:
  - 1) Whether the rule from which the waiver is granted would, as applied to the particular case, be unreasonable or unnecessarily burdensome.
  - 2) Whether any party will be injured by the granting of the waiver.

**Commented [MH6]:** ICJC EE/IF Subcommittee Members:

Recommend requiring some notification of EEUP stakeholders in the event a utility petitions for a waiver - e.g. participants in this workshop, parties to rulemaking, implementers and vendors, and others.

## SUBPART B: CUSTOMER AND PROJECT ELIGIBILITY

### Section 440.100 Customer Program Participation Eligibility

- a) To be eligible to participate in the Program, an entity must:
  - 1) Be a retail customer whose electric delivery service is provided by an electric utility subject to this Part.
  - 2) Have the energy project installed at a location at which it is provided electric delivery service by an electric utility subject to this Part.
  - 3) **Provide** an Equitable Energy Upgrade Agreement signed by the entity and, if the entity is not the property owner, provide an Ownership Agreement signed by the property owner.
  - 4) Agree that the electric utility can recover the costs for the energy project through the customer's electricity bill, or take electric delivery service at a location where

**Commented [kl7]:** Why would the customer "provide" the agreement?

**Commented [ZJ8R7]:** Jim Z (ICC Staff): Yes. The wording here needs revision. The intent is that the customer and property owner sign an agreement.

an energy project has been installed and where the previous retail customer taking electric service at the time the project was installed agreed that the electric utility could recover the costs for the energy project through the customer's electricity bill.

#### Section 440.110 Energy Project Program Participation Eligibility

- a) To be an eligible project to participate in the program, a project must be:
- 1) An energy project;
  - 2) A project with Energy Star certification, if applicable;
  - 3) An energy project with annual Program Service Charges that are no greater than 80% of the estimated annual savings to a participating customer from the energy project, based on rates in effect at the time the energy project is installed, for each year during the estimated life of the energy project or the length of any full parts and labor warranty for the energy project, whichever is greater.
  - 4) The duration of the program charges for the energy project do not exceed 80% of the estimated life of the energy project, the length of a full parts and labor warranty, whichever is greater and in no case exceed twelve years.

#### SUBPART C: ENERGY PROJECT OWNERSHIP, MAINTENANCE, REPAIRS AND PAYMENTS

#### Section 440.200 Ownership During Payment Period

Until all program service charges are paid for an energy project, the electric utility shall retain ownership of the energy project. When all services charges for the energy project have been paid, ownership will be transferred to the owner of the property where the energy project is installed.

#### Section 440.210 Maintenance

Until all program service charges are paid for, the owner of the property where an energy project is installed shall maintain the energy project and the owner of the property and occupant of the property shall not damage or remove the energy project.

#### Section 440.220 Repairs

- a) Until all program service charges are paid for an energy project if the electric utility determines that the installed energy project is no longer functioning as intended and that the owner or occupant of a property where the energy project is installed did not damage or fail to maintain the energy project, the electric utility shall reduce or

**Commented [MH9]:** ICJC EE/IF Subcommittee Members:

Recommend further discussion on this Energy Star certification requirement, including:

- Why do we want to require Energy Star certification?
- What is meant by "if applicable"?
- Are there any concerning implications for TOB financing?

**Commented [ZJ10R9]:** Jim Z (ICC Staff): This provisions was taken from the PAYS Model Tariff at 7.2. Staff is open to discussing removing or amending.

**Commented [st11R9]:** Stephen Bickel, Clean Energy Works - Not all products or elements of a project are ENERGY STAR certifiable, for example, air sealing and insulation.

**Commented [MH12]:** ICJC EE/IF Subcommittee Members:

We should discuss the purpose and implications of the proposal that utilities retain ownership. In particular, it would be worth discussing:

- Why does the utility retain ownership?
- How would the retention of ownership work?
- What are the implications of this retention of ownership when it comes to ratebase and the return utilities earn on that ratebase?
- How would this work when it comes to generation?
- What alternatives are there?

**Commented [ZJ13R12]:** Jim Z (ICC Staff): This is from the PAYS Model Tariff at 7.3. Staff is open to discussing amending it.

**Commented [st14R12]:** Stephen Bickel, Clean Energy Works: The purpose of ownership is to enable the upgrade to be considered an essential utility service subject to a tariffed charge that is transferable with notice to a successor customer. This may not be necessary under the IL statute if the statute authorizes such transfer regardless. Some have argued that the tariffed charge should be prepayable at time of sale to avoid complicating real estate transactions. Ther...

**Commented [MH15]:** ICJC EE/IF Subcommittee Members:

Recommend this language be altered to allow - and potentially require, in some cases - an ongoing role for the contractor/utility/a servicer in maintaining an energy

**Commented [ZJ16R15]:** Jim Z (ICC Staff): This is from the PAYS Model Tariff at 7.4. Staff is open to amending this language.

**Commented [st17R15]:** Stephen Bickel, Clean Energy Works: At present maintenance and upkeep would apply heat pumps, air conditioning systems, and heat pump water heaters. Since maintenance is required to ensure performance the sponsoring utility should be responsible for at a minimum providing access to a reasonably priced service

suspend the program service charge until such time as the electric utility and/or its contractor can repair the energy project. If the energy project cannot be repaired or replaced cost effectively, the electric utility will waive remaining charges.

- b) If program service charges are reduced or suspended because the electric utility determines that the installed energy project is no longer functioning as intended and that the owner or occupant of a property where the energy project is installed did not damage or fail to maintain the energy project, once repairs have been successfully effected or service reconnected, the number of total monthly payments shall be extended until the program service charges collected equal the utility's cost for the energy project as long as the current occupant is still benefitting from the upgrades.
- c) If the electric utility determines a property owner or occupant of a property where the energy project is installed did damage or fail to maintain the energy project, the electric utility shall be entitled to seek recovery of all costs associated with the energy project, including any fees, incentives paid to lower energy project costs, and legal fees. The burden of proof for such recovery of costs shall be on the utility to show the property owner or occupant of a property failed to maintain the energy project.

#### **Section 440.230 Disconnection for Nonpayment**

- a) Until all program service charges are paid for, the electric utility may disconnect and/or remove an energy project for non-payment upon 45 days' notice to the customer and, if different than the customer, the owner of the property that includes, but is not limited to, the following:
  1. The date the notice is issued;
  2. The effective date of the disconnection or removal;
  3. The reason for disconnection or removal;
  4. Options for the customer and/or owner to prevent disconnection;
  5. Contact information for the utility; and
  6. Contact information for the Commission's Consumer Services Division.
- b) Method of Disconnection Notice Delivery:
  - 1) All utility disconnection notices shall be sent separately from any other mailing to the customer and the property owner if different from the customer.
  - 2) The notice shall be sent by U.S. Mail or hand delivered.

#### **Commented [GL18]: ICJC EE/IF Subcommittee Members:**

This section should be in here to protect customers - particularly low-income/EJ customers - from disconnection, wherever possible, rather than facilitate it. Currently it seems to be about facilitating disconnection.

Recommendations to strongly consider include:

- Explicitly disallowing disconnection for nonpayment of the PAYS portion of the bill, alone - a practice that is pending approval in Minnesota (top preference)
- Pause on any disconnection of program participants for non-payment for the first year of the program, coupled with tracking and reporting on instances that would have led to disconnection over that year, including an assessment as to whether the energy project is operating as expected and whether savings are staying within guardrails. Disconnection should not be introduced for the program until after a review of that report has been undertaken and a recommendation made that no further changes to the rules are required to protect customers.
- Significant extension of the length of time prior to disconnection and expansion of the corrective measures the utility must take during that period to try and help the customer get back on track prior to disconnection (payment plans, assistance, arrears forgiveness, etc.), particularly for lower income customers.
- Waiver of reconnection fees for low and moderate income customers.

#### **Commented [st19R18]: Stephen Bickel, Clean Energy Works**

We share concerns about disconnection for non-payment. At present it is the mechanism utility's use in general to secure payment for essential utility services. Its application in PAYS is in order to ensure that the same rules are applied to PAYS charges as to payments for other essential utility services. EEI has stated this explicitly[1].

We support the ICJC EE/IF Subcommittee Members call for a first year pause on disconnections to ascertain the actual frequency of cases where a customer would be disconnected in whole or in part due to non-payment of the PAYS charges, since the expectation is that it will be easier rather than harder for participants who get upgrades to pay their utility bills. The proposed additional test of "whether savings are staying within guardrails".

#### **Commented [GL20]: ICJC EE/IF Subcommittee Members:**

Strongly recommend that removal of installed energy project not be allowed under these rules. PAYS programs in other states do not employ removal as a remedy for nonpayment. Removal of measures like insulation and air sealing is not practical and removal of other measures would be highly disruptive to the participant, as well as costly to the program.

#### **Commented [kd21]: NCLC objects to disconnection of essential utility service for nonpayment of EEUP charges.**

- 3) The utility shall record the date the notice is sent or delivered and retain that record for two years.
- 4) If the utility and customer have agreed to electronic communications, a utility shall submit a duplicate notice to the customer electronically as long as it has also mailed or hand delivered a paper version of the notice to the customer.

#### Section 440.240 Disconnection for Reasons Other Than Nonpayment

Until all program service charges are paid for, the electric utility may immediately disconnect and/or remove an energy project for:

- a) Failure, after four attempts, to provide the electric utility access to energy project necessary for the utility to inspect and/or repair the energy project;
- b) Occupant usage without a valid customer of record;
- c) Theft of service and/or tampering;
- d) Non-compliance with any rules or program requirements of the electric utility on file with the Commission for which the electric utility is authorized by tariff to disconnect service in the event of non-compliance;
- e) Non-compliance with an order of the Commission;
- f) Unsafe conditions; or
- g) Cooperation with civil authorities.

#### SUBPART D: GENERAL ELECTRIC UTILITY REQUIREMENTS

#### Section 440.300 Requirement to Offer a Program

Each electric utility must adopt a Program that complies with the requirements of this Part that permits eligible customers, at each customer's option, to finance the construction of energy projects that are paid for directly by the customers through their utility bill.

#### Section 440.310 Informational Filings

- a) Within 120 days after the effective date of this Part or when this Part becomes applicable to it, whichever is later, each electric utility shall submit an informational filing to the Commission that describes its Program and a plan for implementing the Program.

**Commented [kl22]:** Same objection.

**Commented [GL23]:** ICJC EE/IF Subcommittee Members:

Immediate disconnections are problematic (with the exception of a safety issue) and should be explicitly disallowed in these rules. A notice and other measures should always come first.

**Commented [kl24]:** NCLC objects to disconnections of essential utility service based on EEUP issues.

**Commented [st25]:** One way to protect customers from being disconnected largely for non-payment of the PAYS charges would be to explicitly disallow this, but allow disconnection if arrearages are due primarily to non-payment of bills for electricity services:

For example, Participants may be disconnected solely for non-payment of the tariffed charge, but can be disconnected. Participants may be disconnected, however, if an account is in arrears for regular charges and tariffed charges, if the tariffed charges represent 10% or less of the amount owed, when the customers account exceeds the threshold that triggers disconnection for non-payment.

It would be preferable, of course, to help participants have forewarning that they are on a trajectory toward a higher than expected monthly bill and have the opportunity to identify an issue or adjust behavior before excessive charges accumulate. This would entail adding a requirement to the effect of:

**Commented [GL26]:** ICJC EE/IF Subcommittee Members:

Strong recommendation for this issue to have further discussion and further guardrails. In particular:

**Commented [GL27]:** ICJC EE/IF Subcommittee Members:

Recommend the removal of (b) - (g) from these rules. These issues relate to normal service, not this program in particular, and should not be dealt with in rules specific to this program.

**Commented [GL28]:** ICJC EE/IF Subcommittee Members:

For discussion with workshop participants: Can these also be filed in the rulemaking docket/can the workshop list also be alerted? If so, do we need to require that in these rules?

**Commented [GL29]:** ICJC EE/IF Subcommittee Members:

Informational filings should also include information from utilities on how their plans for implementing the Program includes coordination with other services they provide, primarily EE and other financing options.



- b) Each electric utility shall file with the Commission any changes to the description of its Program and/or plan for implementing the Program in an information filing at least 90 days before implementing the changes.
- c) Information filings pursuant to this Part must comply with the requirements of this part unless an electric utility has sought and been granted a waiver of a requirement of this part.
- d) EEUP tariffs filed by a utility shall be suspended by the Commission in order to ensure the tariff provisions comply with the requirements of this rule.

#### Section 440.330 Program Cost Recovery

- a) Each electric utility shall recover all program costs, which include but are not limited to direct costs and through program service charges included on participating customers electric bills.
- b) Each utility shall establish a section the bill entitled Equitable Energy Upgrade Program Project.” Under this title the electric utility shall include the following items:
  - 1) A line item entitled “Program Service Charges” that contains the program service charge for the month.
  - 2) A line item entitled “Estimated Program Savings” that contains the estimated program savings for the month.
  - 3) A line item entitled “Established on” that contains the date that the customer’s energy project was established within the program.
  - 4) A line item entitled “Installment Number X of Y” where X shall be the program service charge installment number for the billing month and Y shall be the total number of installments associated with the energy project.
  - 5) A line item entitled “Total Cost” that contains the sum of all program service charges over the duration of the program service charges.
  - 6) A line item entitled “Remaining Cost After Current Installment” that contains the sum of the remaining program service charges over the remaining duration of the program service charges assuming the current installment is made by the customer.
- c) The electric utility shall not require an upfront payment for an energy project under the program, with the exception that a customer may elect to make a payment to the installing contractor in order to make the energy project eligible for program participation under subsection 110(a)(3) or subsection 110(a)(4) of this part.

**Commented [st30]:** Passive voice makes this provision ambiguous. However, if it is worded in the active voice it would seem to be a restatement of basic commission powers: "The Commission may suspend a utility's EEUP tariff if it determines that the tariff provisions do not comply with this rule"

**Commented [TD31]:** Are certain costs excluded? If so, so state.

**Commented [kl32]:** It's unclear if this is stating that all EEUP program costs should be recovered only through participating customers (and not ratepayers at large).

**Commented [GL33]:** ICJC EE/IF Subcommittee Members:  
Request that we walk through what this would include with utilities in the workshop. Further clarify whether the wording is correct.

**Commented [st34]:** For workshop discussion. Does it make sense for the participating customers to bear the entire program cost given that the utilities and ideally all ratepayers will benefit from system benefits delivered by the participants' upgrades. Two independent evaluations of utility PAYS programs have calculated that the participating locations have a Net Present Value to the sponsoring distribution utility of \$1500-\$3000 per location, after all costs are considered. See Bickel et al 2022, Bickel et al 2020 (an update of this paper is forthcoming in November). Both papers have been shared with workshop participants.



### Section 440.330 Participation Requirements

- a) If demand exceeds the capital supply, then the electric utility shall allocate funds such that at least 50% of participants are:
- 1) Customers in neighborhoods where a majority of households make 150% or less of area median income; or
  - 2) Residents of environmental justice communities.

b) A utility that seeks to allocate additional funds as provided under subsection a) shall file a petition with the Commission seeking authorization to increase the EEUP capital supply. Notice of such filing shall be provided to all parties who intervened in the rulemaking establishing this rule. Any such request shall include, at a minimum, a statement identifying the source of the new capital, the interest rate assessed on the utility if applicable and a listing of the communities that the utility intends to market EEUP measures given the conditions that triggered this provision. A utility may seek a waiver of this requirement, consistent with the requirements outlined in Section 440.40.

### Section 440.340 Education, Information and Marketing

- a) Prior to when a customer signs an Equitable Energy Upgrade Agreement, the electric utility shall notify the customer that, if the customer is income qualified as that term is variously defined for purposes of the electric utility's energy efficiency program, low-income electric utility support programs, low-income programs offered by the state, including the Low Income Home Energy Assistance Program, the Percentage of Income Payment Plan program, the Illinois Home Weatherization Assistance Program, or any other electric utility customer assistance program, the customer may qualify for electric utility support and/or free energy improvements. The notice shall include information on electric utility and state support programs, including information on how to access these programs and the address of all community action agencies within the utility's service territory that offer these programs. This notice shall also include any such utility-sponsored programs, contact information, where further information can be obtained and details as to how to qualify for those programs.
- b) A utility filing an EEUP tariff shall provide details as to how the utility intends to provide this information to potential EEUP customers, including a sample notice that details the information referenced in subpart a) above.

### Section 440.350 Vendor Selection

- a) Each electric utility shall select vendors for the program by soliciting vendor participation through request for proposals and a competitive selection process.

**Commented [GL35]:** ICJC EE/IF Subcommittee Members:

Recommend further discussion of this within the workshop. What if 0 or 100% of participants meet these criteria? Might it be better to prioritize EJ/150% AMI up to a certain percentage of the program and then do first come first serve thereafter?

**Commented [ZJ36R35]:** Jim Z (ICC Staff): This language generally mirrors the statute. We are happy to discuss additional language to guide implementation.

**Commented [GL37]:** ICJC EE/IF Subcommittee Members:

Clarification - does this include owners of affordable housing? If not or if unclear, consider adding explicitly.

**Commented [st38]:** What is the size of the area being used to calculate the median? The median for a neighborhood will be very different than the median for a city or the state as a whole.

**Commented [st39]:** This proposed requirement will be a time consuming process that could lead to program disruption and loss of program work force and trade ally participation. Budgeting for EEUP should be wrapped into the existing rate case cycle and the utility permitted to raise additional capital and investment if predefined benchmarks or conditions are met. The program needs a mechanism that enables it to ensure smooth continuous operation and growth to "meet demand" as required under the statute.

**Commented [GL40]:** ICJC EE/IF Subcommittee Members:

This section needs to be changed and expanded in a number of ways.

First of all, it is a minimum program requirement of PAYS that not only income-qualified customers, but all customers utilize all other utility offers in concert with PAYS, rather than having the programs compete with each other. We should require this of the Illinois programs so that Illinois customers utilize free offerings (e.g. audits, income-qualified programs, WAP, etc) first AND get access to any utility or other rebates, health and safety programs, etc., and THEN (...)

**Commented [st41R40]:** Agreed. Midwest Energy and the state WAP program collaborate to provide complete upgrades to homes including HVAC which would otherwise only get basic weatherization improvements. (...)

**Commented [kl42]:** This information needs to be developed through the workshop process.

**Commented [st43R42]:** Agreed.

**Commented [GL44]:** ICJC EE/IF Subcommittee Members: (...)

b) Vendor selection shall be made on the basis of criteria including, but not limited to:

- a. Qualification of the vendor to install the relevant energy projects, to assist customers in applying for participation in the program, and to provide information to customers on the program and other electric utility support and/or free energy improvements; and
- b. The prices for the vendor to install relevant energy projects, to assist customers in applying for participation in the program, and to provide information to customers on the program and other electric utility support and/or free energy improvements.

C) NCLC SUGGESTS A REFERENCE TO A STAKEHOLDER REVIEW PROCESS TO BE REQUIRED AS A PART OF THE UTILITIES' CREATION OF AN RFP AND TO PROVIDE INPUT ON THE SELECTION OF VENDOR PROCESS.

D) NEED CLEAR RULES REGARDING THE MARKETER/IMPLEMENTER HAVING NO FINANCIAL INTEREST IN THE PROMOTION OF THE EEUP MEASURES.

#### SUBPART E: SECURITIZATION OF CAPITAL

##### Section 440.400 Minimum Capital Requirements

- a) For the first year of program operation, each electric utility shall secure capital greater or equal to \$20,000,000 to be used for investments in energy projects pursuant to the program.
- b) For the second year of program operation, each electric utility shall secure capital greater or equal to \$40,000,000 to be used for investments in energy projects pursuant to the program.
- c) For the third year of program operation and all subsequent years, each electric utility shall secure capital sufficient to fund all demand for investments in energy projects pursuant to the program, subject to available capital provided by the utility, State, or other lenders.
- d) NEED PROVISIONS REQUIRING LEAST COST CAPITAL

#### SUBPART F: CUSTOMER PROTECTION

##### Section 440.500 XXX TO BE DEVELOPED IN WORKSHOPS

#### SUBPART G: VENDOR REQUIREMENTS

**Commented [GL45]:** ICJC EE/IF Subcommittee Members:

Add – “and health and safety” improvements

**Commented [st46]:** The rules should require that the program operator compensation be independent of the size of the investment. It should be linked to the volume of customers served. I do not think it is possible to craft a contract that compensates and incentivizes an implementer to provide services in which there is no financial incentive to promote the program or propose all cost-effective measures.

In some PAYS programs the program operator provides some prospective participant with two offers:

- one for no-cost upfront cost building shell, lighting, other weatherization measures, and

- a second that includes HVAC when the HVAC measure requires a copayment.

**Commented [GL47]:** ICJC EE/IF Subcommittee Members:

Suggest the addition of a new subpart on capital sourcing as there are many complex issues to be addressed with respect to capital sourcing: (1) Will utilities be required to raise their own capital or can they partner with third party capital providers? (2) Will utilities be able to access capital through the Illinois Jobs & Justice Fund or the IFA's Climate Bank? (3) Should utilities be able to earn a return on their EEUP investments, and if so what level of return is appropriate? Missouri regulators have allowed the IOUs to earn their weighted average cost of capital (WACC) on PAYS investments. Stakeholder workshops should address whether this makes sense for EEUP or if other approaches are preferred. (4) Lastly, the rules should also provide guidance

**Commented [GL48]:** ICJC EE/IF Subcommittee Members:

The legislature did not direct the utilities to secure the capital without an intent that that capital be deployed. Recommend the workshop discuss mechanisms that support and/or

**Commented [st49]:** I realize this language is from the statute, however, this term will need to be defined more precisely. If demand overwhelms supply, what is the utility's responsibility? Is there a minimum annual rate of program expansion that must be met, e.g. 100% until the utility is upgrading 5% of its customer's building stock annually

**Commented [st50]:** And a pass through to the customer any subsidy due to philanthropic support/underwriting.

**Commented [GL51]:** ICJC EE/IF Subcommittee Members:

For discussion: Should there be a cap on administrative costs?

**Commented [st52R51]:** Would this be an absolute cap, a percentage cap or a cap linked to program volume

**Section 440.600 XXX**

**TO BE DEVELOPED IN WORKSHOPS**

SUBPART H: PROGRAM REVIEW

**Section 440.700 XXX**

**TO BE DEVELOPED IN WORKSHOPS**

**Commented [GL53]:** ICJC EE/IF Subcommittee Members:

Recommend that these requirements mirror the effort to lift up training program graduates, cultivate vendors with qualifications akin to the equity eligible contractor definition used in the Illinois Power Agency and ultimately create a vendor force that mirrors the diversity of the state.

Sufficient support should be provided to train vendors on program processes so lack of program knowledge is not a barrier to being awarded work.

Processes should be developed to publicize this program and the opportunities for vendor participation in EJ/R3 communities.

**Commented [GL54]:** ICJC EE/IF Subcommittee Members:

Reporting for each utility should be at least yearly and published online.

Metrics should include, but not be limited to:

- Total \$ spent
- Number of households served
- Percentage of spending by project type (solar, roof, heat pump, etc.)
- Number of participating vendors
- Percentage of spending by vendor (equity eligible, non-equity eligible)
- Percentage of spending with vendors who are CEJA program graduates
- Classification of participating households by major metropolitan area and percentage in rural areas with accompanying map
- Percentage of spending by major metropolitan area and percentage in rural areas with accompanying map
- Classification of participating households by EJ, R3 and non-EJ/R3 areas
- Percentage of spending by EJ, R3 and non-EJ/R3 areas with accompanying map
- Classification of participating households by income
- Details on issues like faulty installations, repayment issues, end customer savings issues
- Additional metrics should report energy efficiency savings in a way that savings can be rolled up with other utility EE programs.
- Additional metrics should quantify “solar prep” work like roofs in a way that can be rolled up with other “solar prep” programs through the Illinois Power Agency. Further, work should be coordinated so that the portion of residential RECs related to this program are clearly identified in Illinois Power Agency results.
- Additional reporting metrics should be discussed within the workshops

**Commented [st55R54]:** A variety of metrics have been proposed in the Silicone Vally Clean Energy/TECH Tier 3 program proposal to the California Clean Energy Financing Order Instituted Rule Making and are likely to be proposed by Duke in their Tariffed on Bill financing.